

bond or if the manufacturer has defaulted in any way in paying the taxes, the manufacturer is required to file a prepayment return prior to removal of such products, and to continue so doing until the appropriate TTB officer finds that the revenue will not be jeopardized by deferred payment. Tax returns, with remittances, are filed by the domestic manufacturer in accordance with instructions on the appropriate TTB form. Taxes on cigars produced in a customs bonded manufacturing warehouse, Class 6, are paid on the basis of a return to the director of customs in accordance with customs procedures and regulations. Taxes on tobacco products imported or brought into the United States from a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States are paid by the importer to the director of customs on the basis of a return made on the customs form by which release from customs custody is to be effected. However, taxes on tobacco products manufactured in Puerto Rico and brought into the United States may be prepaid in Puerto Rico on the basis of a return. If a Puerto Rican manufacturer has filed a proper bond, such manufacturer may defer payment at the time of release for shipment to the United States and file a semimonthly return to cover the taxes. If the manufacturer has not filed such a bond or if such manufacturer has defaulted in any way in payment of taxes, the manufacturer must file a prepayment return prior to removal of such products for shipment to the United States, and continue to do so until the appropriate TTB officer finds that the revenue will not be jeopardized by deferred payment. Tax returns, with remittances, are filed by the domestic manufacturer in accordance with instructions on the appropriate TTB form.

(b) *Cigarette papers and tubes.* Taxes on cigarette papers and tubes are paid by the manufacturer on the basis of a semimonthly return. Such returns, with remittances, are filed in accordance with the instructions on the appropriate TTB form. Taxes on cigarette papers and tubes imported or brought into the United States from a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United

States are paid to the director of customs before removal on the basis of a return made on the customs form by which release from customs custody is effected. However, taxes on cigarette papers and tubes of Puerto Rican manufacture which are to be shipped to the United States may be prepaid in Puerto Rico on the basis of a return.

(c) *Special tax.* Special (occupational) taxes are paid by manufacturers of tobacco products, manufacturers of cigarette papers and tubes, and export warehouse proprietors on the basis of a return. Special tax stamps are issued to denote the payment of special (occupational) taxes.

(d) *General.* Detailed information about the payment of taxes on tobacco products, and cigarette papers and tubes, including the forms to be used, records to be kept, and reports and inventories to be filed, is contained in the respective regulations referred to in § 70.431.

(Approved by the Office of Management and Budget under control number 1512-0472)

[T.D. ATF-251, 52 FR 19325, May 22, 1987, as amended by T.D. ATF-271, 53 FR 17549, May 17, 1988. Redesignated and amended by T.D. ATF-301, 55 FR 47606, 47654, Nov. 14, 1990; T.D. ATF-450, 66 FR 29029, May 29, 2001]

§ 70.434 Assessments.

When additional or delinquent tax liability on tobacco products, and cigarette papers and tubes is disclosed by an investigation or by an examination of the taxpayer's records, a notice (except where delay may jeopardize collection of the tax, or where the amount is nominal or the result of an evident mathematical error) is forwarded to the taxpayer indicating the basis for, and amount of, the liability and affording the taxpayer an opportunity to show cause, in writing, against assessment.

[T.D. ATF-251, 52 FR 19325, May 22, 1987. Redesignated by T.D. ATF-301, 55 FR 47606, Nov. 14, 1990]

§ 70.435 Claims.

(a) *General.* Detailed requirements, including the procedure to be followed in the filing of a claim, the form to be used, the supporting documents which must be submitted, the time within which a claim must be filed, and any

other limitations or instructions are contained in the applicable regulations referred to in § 70.431.

(b) *Abatement of assessment.* Abatement of the unpaid portion of an assessment of any tax on tobacco products, and cigarette papers and tubes, or any liability in respect thereof, may be allowed to the extent that such assessment is excessive in amount, is assessed after expiration of the applicable period of limitation, or is erroneously or illegally assessed.

(c) *Allowance of tax.* Relief from the payment of tax on tobacco products, and cigarette papers and tubes may be extended to a manufacturer by approval of a claim for allowance where such articles, after removal from the factory upon determination of tax and prior to the time for payment of such tax, are lost (otherwise than by theft) or destroyed by fire, casualty, or act of God, while in the possession or ownership of the manufacturer who removed such articles, or are withdrawn by the manufacturer from the market.

(d) *Remission of tax liability.* Remission of the tax liability on tobacco products, and cigarette papers and tubes may be extended to a manufacturer or export warehouse proprietor liable for the tax, where such articles in bond are lost (otherwise than by theft) or destroyed by fire, casualty, or act of God, while in the possession or ownership of the manufacturer or export warehouse proprietor.

(e) *Refund of tax.* Taxes paid on tobacco products, cigarette papers and tubes lost (otherwise than by theft) or destroyed by fire, casualty, or act of God, while in the possession or ownership of the manufacturer, importer, or export warehouse proprietor, or withdrawn from the market, may be refunded. Refunds may also be made within certain limitations for overpayments of tax on tobacco products, and cigarette papers and tubes.

(f) *Losses caused by disaster.* Payment of an amount equal to the amount of internal revenue taxes paid or determined and customs duties paid on tobacco products, and cigarette papers and tubes removed from the factory or released from customs custody, which are lost, rendered unmarketable, or condemned by a duly authorized offi-

cial by reason of a “major disaster” as determined by the President of the United States may be made only if, at the time of the disaster, such articles were being held for sale by the claimant. Claims must be filed within 6 months from the date on which the President makes the determination that the disaster has occurred. The determination date is construed to mean the date the Director, Office of Emergency Preparedness, identifies the specific disaster area.

(g) *Drawback of tax.* Drawback may be allowed to the person who paid the tax on tobacco products, and cigarette papers and tubes which are shipped to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States.

(h) *Credit of tax.* Taxes paid on tobacco products, and cigarette papers and tubes lost (otherwise than by theft) or destroyed by fire, casualty, or act of God, while in the possession or ownership of the manufacturer, or withdrawn from the market, may be credited upon approval of a claim.

(i) *Reopening claims.* A claimant who wishes to have a rejected claim reopened must, within the applicable statutory period of limitations, submit a written application to the appropriate TTB officer for reconsideration of the claim. Such application must show that the additional evidence to be presented is new and material, and that such evidence was unknown to the claimant, or unobtainable by the claimant, when the claim was previously under consideration.

(j) *Claimant's rights under law and regulations.* Before final action has been taken on a claim, a claimant who, by reason of an oversight, misunderstanding of law and regulations, miscalculation, or other cause, did not claim the full amount of abatement, refund, credit, or drawback, as the case may be, of tax to which the claimant is legitimately entitled, may amend a valid claim, and statements filed in support thereof, in instances where such a claim is deficient in establishing the claimants eligibility to

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rights extended under law and regulations.

[T.D. ATF-251, 52 FR 19325, May 22, 1987. Redesignated and amended by T.D. ATF-301, 55 FR 47606, 47654, Nov. 14, 1990]

§ 70.436 Offers in compromise.

Procedure in the case of offers in compromise of liabilities under 26 U.S.C. chapter 52 is set forth in §§ 70.482 through 70.484.

[T.D. ATF-301, 55 FR 47654, Nov. 14, 1990]

§ 70.437 Rulings.

The procedure for rulings in tobacco tax matters is set forth in § 70.471.

[T.D. ATF-301, 55 FR 47654, Nov. 14, 1990]

§ 70.438 Forms.

Detailed information as to all forms prescribed for use in connection with tobacco taxes is contained in the regulations referred to in § 70.431(b).

[T.D. ATF-251, 52 FR 19325, May 22, 1987. Redesignated by T.D. ATF-301, 55 FR 47653, Nov. 14, 1990, as amended by T.D. ATF-450, 66 FR 29029, May 29, 2001]

PROVISIONS RELATING TO FIREARMS, SHELLS AND CARTRIDGES, AND EXPLOSIVES

§ 70.441 Applicable laws.

(a) Chapter 53 of the Internal Revenue Code (26 U.S.C. 5801-5872), the provisions of which are derived from the National Firearms Act Amendments of 1968 (82 Stat. 1227), imposes a tax on the making and transfer in the United States of machine guns, destructive devices, and certain other types of firearms, and an occupational tax upon every importer and manufacturer of, and dealer in, such firearms. Section 1(b) (2) of the act of August 9, 1939 (52 Stat. 1291; 49 U.S.C. 781-788), makes provision for the seizure and forfeiture of vessels, vehicles, and aircraft which are used to transport, carry, or possess, or to facilitate the same, any firearms with respect to which there has been committed any violation of the National Firearms Act or any regulations issued pursuant thereto.

(b) Title I, State Firearms Control Assistance (18 U.S.C., Chapter 44), of the Gun Control Act of 1968 (82 Stat. 1213), as amended by Pub. L. 99-308 (100

Stat. 449), Pub. L. 99-360 (100 Stat. 766) and Pub. L. 99-408 (100 Stat. 920), provides for the licensing of manufacturers and importers of firearms and ammunition, collectors of firearms, and dealers in firearms, and establishes controls for firearms and ammunition acquisitions and dispositions.

(c) Title I, State Firearms Control Assistance (18 U.S.C. Chapter 44), of the Gun Control Act of 1968 (82 Stat. 1213) as amended by Pub. L. 99-308 (100 Stat. 449) and Pub. L. 99-360 (100 Stat. 766), provides that no person may ship or transport any firearms or ammunition in interstate or foreign commerce, or receive any firearms or ammunition which has been shipped or transported in interstate or foreign commerce, or possess any firearms or ammunition in or affecting commerce, who (1) has been convicted of a crime punishable by imprisonment for a term exceeding 1 year, (2) is a fugitive from justice, (3) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802), (4) has been adjudicated as a mental defective or has been committed to a mental institution, (5) is an alien illegally or unlawfully in the United States, (6) has been discharged from the Armed Forces under dishonorable conditions, or (7) having been a citizen of the United States, has renounced citizenship.

(d) Section 38 of the Arms Export Control Act (22 U.S.C. 2778) and regulations thereunder and 27 CFR part 447 are applicable to the registration and licensing of persons engaged in the business of manufacturing, importing or exporting arms, ammunition, or implements of war. The Secretary of the Treasury is authorized to control, in furtherance of world peace and the security and foreign policy of the United States, the import of articles enumerated on the U.S. Munitions Import List.

(e) Title XI, Regulation of Explosives (18 U.S.C. chapter 40) of the Organized Crime Control Act of 1970 (84 Stat. 922) provides for the licensing of manufacturers, importers, and limited manufacturers of, and dealers in, explosives in interstate or foreign commerce, and for issuance of permits for users who